IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 2ND AUGUST 2007 / 11TH SRAVANA 1929

WP(C).No. 30035 of 2005(A)

OP.1255/2003 of FAMILY COURT, THIRUVALLA

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PETITIONER:

G. RANGANATHAN, AGED 56,
S/O. GOVINDAN VAIDHYAN, ATHULYA HOUSE,
PASHNITHODU, PALLURUTHY VILLAGE,
KOCHI TALUK.

BY ADV. SRI.P.S.BIJU
SRI.SAJI VARGHESE KAKKATTUMATTATHIL

RESPONDENT:

M.K. NALINI, MOONNUPARAMBIL,
ERUVELLIPRA, THIRUMOOLAM P.O.,
THIRUVALLA VILLAGE, THIRUVALLA TALUK,
PATHANAMTHITTA DISTRICT.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX(WPC 30035/05)

PETITIONER'S EXTS.:

EXT.P1: TRUE COPY OF THE ORIGINAL PETITION FILED BY THE RESPONDENT BEFORE THE FAMILY COURT, THIRUVALLA.

EXT.P2: TRUE COPY OF THE OBJECTION FILED BY THE PETITIONER BEFORE THE FAMILY COURT, THIRUVALLA IN EXT.P1.

EXT.P3: TRUE COPY OF THE AFFIDAVIT AND PETITION FILED BY THE RESPONDENT DT. 1.3.2005 IN EXT.P1 CASE.

EXT.P3(a): TRUE COPY OF THE STATEMENT OF ACCOUNTS SUBMITTED BY THE RESPONDENT ALONG WITH EXT.P3.

EXT.P4: TRUE COPY OF THE APPLICATION FILED BY THE PETITIONER BEFORE THE FAMILY COURT, THIRUVALLA.

EXT.P5: TRUE COPY OF THE ORDER DT. 1.3.2005 IN I.A.NO.449/05 OF THE FAMILY COURT, THIRUVALLA.

PIUS C. KURIAKOSE,J.

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W.P.(C) No.30035 of 2005

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Dated: 2nd August, 2007

JUDGMENT

There is no appearance for the respondents. In this Writ Petition under Article 227 of the Constitution the petitioner who is the respondent-husband in an Original Petition before the Family Court filed by the wife for return of certain amounts, impugns Ext.P5 order. According to the petitioner, Ext.P5 order is passed by the learned Judge upon Ext.P3 application. The prayer in Ext.P3 was that a sum of Rs.18,845/- be recovered from the petitioner on account of expenses incurred by the respondent for taking a building on lease and for purchasing household articles so that the parties could restart co-habitation pursuant to certain suggestions given by the counsellors during counselling. Learned counsel for the petitioner submits that it was ignoring the serious objections filed to Ext.P3 that the learned Judge passed Ext.P5 order. On reading Ext.P5, it appears to me that there is an earlier order passed by the learned Judge on Ext.P3. Learned counsel for the petitioner Mr.P.S.Biju asserted before me that Ext.P5 is the only order passed by the learned Judge on Ext.P3. The learned Judge will verify whether apart from Ext.P5, any earlier order directing payment of amounts by the petitioner was passed on

Ext.P3. If it is seen that no earlier order was passed on Ext.P3 directing payment and Ext.P5 is the first order passed on Ext.P3 directing payment of the amounts, the learned Judge will hear the parties once again on Ext.P3 and the objections filed by the petitioner to Ext.P3 and pass fresh orders. In order to enable the learned Judge to do that, there will be a further order that Ext.P3 will stand set aside. In other words, if any earlier order has been passed on Ext.P3 directing payment of the amounts to the respondent, Ext.P5 will stand confirmed.

The Writ Petition is disposed of as above. No costs.

srd **PIUS C.KURIAKOSE, JUDGE**